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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,228	10/22/2003	Ralph Herber	015258-061500US	8382
20350	7590	09/09/2004	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			THOMAS, DAVID B	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,228

Applicant(s)

HERBER ET AL.

Examiner

David B. Thomas

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/22/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

- A person shall be entitled to a patent unless –

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Shank, Jr. (5,401,205).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

Art Unit: 3723

person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 7, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller (5,582,537), in view of Shank, Jr. ('205).

Keller ('537) discloses an apparatus for sand-blasting the inner walls of bores, tubes, pipes, etc. The apparatus includes all of the elements as claimed in claims 7, 8, and 9, except for the abrasive supply and control means. Shank, Jr. ('205), as discussed above, teaches the provision of the abrasive supply and control means, as claimed, for a blasting system. The benefit of which is to control, by means of differential pressure, the amount of abrasive media directed into a compressed air stream. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the blasting apparatus of Keller ('537) by providing an abrasive supply and control means, such as that taught by Shank, Jr. ('205), wherein such an abrasive supply and control means serves to control the amount of abrasive media directed into a compressed air stream.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shank, Jr. ('205), as applied to claims 1-6 above, in view of Ulrich et al. (6,752,685).

Shank, Jr. ('205), as applied to claims 1-6 above, discloses the apparatus as claimed, except for the provision of a programmable control unit for the metering device or the control means. Ulrich et al. ('685) discloses an abrasive system and teaches the provision of a programmable control system wherein a control computer generates control signals for carrying out a plurality of miscellaneous functions required for the intended application. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the blasting apparatus of Shank, Jr. ('205) by providing

a programmable control unit for controlling various elements of the blasting apparatus, as Ulrich et al. ('685) teaches the provision of a programmable control system for a blasting apparatus would have been obvious.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen, Kipp, Miyai et al., Shank, Jr., Shank et al., Spears, Jr. et al., and Suzuki et al. each disclose a blasting apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Thomas whose telephone number is (703) 308-4250. The examiner can normally be reached on 7-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (703) 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



dbt



David B. Thomas
Patent Examiner
Art Unit 3723